

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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NATE MCMURRAY, a Candidate for Congress and as an Enrolled Democratic Party Voter In Erie County, PAULINE GRABEKI, as an Enrolled Republican Party Voter in Erie County, and RONALD COONS, as an Enrolled Democratic Party Voter in Erie County, individually and on behalf of a Class of Erie County Voters Similarly Situated,

Case No.: 1:20-cv-00689-LJV

Plaintiffs,

– against –

RALPH M. MOHR and JEREMY J. ZELLNER, individually and as COMMISSIONERS of the ERIE COUNTY BOARD OF ELECTIONS, and the ERIE COUNTY BOARD OF ELECTIONS,

Defendants.

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**DEFENDANTS' NOTICE OF MOTION  
TO DISMISS THE FIRST AMENDED COMPLAINT**

Moving Party: Defendants Ralph M. Mohr, Jeremy J. Zellner, and the Erie County Board of Elections.

Nature of Action: Alleged violations of New York State Election Law and alleged federal and state constitutional violations.

Directed To: Plaintiffs.

Date and Time: To be scheduled by the Court.

Place: In the courtroom of the Hon. Lawrence J. Vilardo, United States District Court, 2 Niagara Square, Buffalo, NY 14202.

Supporting Papers:

Memorandum of Law in Support of Defendants' Motion to Dismiss, dated July 13, 2020, and Declaration of Daniel A. Spitzer, dated July 13, 2020, with exhibits.

Answering Papers:

Absent an Order setting deadlines, pursuant to Local Rule 7(b)(2)(B), opposing papers must be served within fourteen (14) days after the service of this motion. Plaintiff intends to file and serve a reply, which must be served within seven (7) days after service of opposing papers.

Relief Requested:

An Order dismissing the First Amended Complaint.

Grounds for Relief:

Federal Rule of Civil Procedure 12(b)(6) and case law.

Oral Argument:

Requested.

Dated: July 13, 2020

**HODGSON RUSS LLP**

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- and -

**MICHAEL A. SIRAGUSA**

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Zellner, and the Erie County Board of  
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By: s/ Jeremy Toth

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